The 20th anniversary of the BC treaty process is in less than a year.

On September 21, 2012 British Columbians and Canadians should be asking: Has there been a sufficient return on investment in the BC treaty process given the time and money spent? Has it been worth it?

BC TREATY COMMISSION

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Letter from the Chief Commissioner

The state of the economy worldwide has been on everyone's mind in 2011. The BC government recently unveiled their plan for ensuring the economy remains strong for all British Columbians including First Nations.

The Treaty Commission has been consistent in its view that settling treaties is an effective way to ensure there is economic growth in all regions of the province. In a report we commissioned in 2009, PricewaterhouseCoopers confirmed those economic benefits will accrue to all British Columbians.

Treaties are an untapped source of economic growth and when a First Nation prospers the whole region prospers.

My first annual report was in 2009, at which time I mentioned my concern regarding the lack of progress in treaty negotiations, especially given the growing debt load being carried by First Nations and the fragile state of the economy. In 2010 I asked the Principals to do more, in a concerted effort, to deliver results.

The lack of urgency in treaty negotiations, for which all parties must accept some of the responsibility, remains a concern of the Treaty Commission. Direction is urgently required from the highest level – the Prime Minister, Premier and First Nations Summit Task Group – to shake the status quo.

The 20th anniversary of the BC treaty process occurs next September. It may be the next big opportunity to move treaty negotiations forward. I am asking the Principals to formally recommit to the intent of the BC Treaty Commission Agreement signed in 1992.

My name is on that agreement, an agreement we signed with great expectations. I am certainly not satisfied with the progress that is being made in treaty negotiations. There are hopeful signs, but no real sense of urgency and some disturbing developments.

I have asked the Principals for a one year extension to my three-year term which ends in March 2012 because the 20th anniversary has taken on so much more importance. The governments of Canada and BC are considering the request. The First Nations Summit has asked me to consider a second, full term. In 2009 I made a commitment to return to my family and community after three years as chief commissioner. So, with my family's blessing, I may be around for another year.

Prospects for the coming year provide some hope we can turn this thing around in a meaningful way. Treaty revitalization work being undertaken by senior officials for each of the three Principals is important if we are to see real change and progress in the negotiations. This work includes the reconsideration of the role of the Treaty Commission. I would like to be part of those discussions.

It is clearer to me this year that the parties must move away from entrenched positions and move towards the interests of true reconciliation through fair and timely negotiations.

From the federal government we need clarity as to their mandate and transparency in its delivery. It is expected, and indeed vital, that the parties give clear mandates to their chief negotiators. Once an agreement has been reached that has taken years of work and millions of dollars, there should be no need to subject it to a long, internal review without an explanation to the other parties.

From the provincial government we need to see strong ties between interim measures such as Reconciliation Agreements and Strategic Engagement Agreements and treaty negotiations. While beneficial to First Nation communities, these are time-limited arrangements.

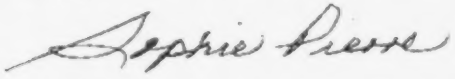
Lasting reconciliation can only be achieved through a treaty, protected in Section 35 of the Constitution. As the Supreme Court has reminded us, Section 35 represents the promise of rights recognition. This promise is realized and the competing claims of the parties are recognized through the process of honourable negotiations.

From the First Nation leaders, we are asking for the same commitment as from the other governments. It is no less challenging for First Nation leaders to maintain a sense of urgency when faced with a long process and delays. There are difficult choices to be made on mandates given the need to improve the quality of life in our communities and escape the limitations of the *Indian Act*. There are pressing business, development and territorial issues to deal with on a daily basis. There is the growing burden of debt to consider.

The Treaty Commission will continue to be focused on the catalysts to move treaty negotiations forward – the potential economic benefits, interim measures to provide benefits now, resolution of territorial issues among First Nations and capacity building to help prepare for governance under a treaty.

Finally, I must express my deep gratitude to an incredibly hard working team of commissioners and staff. I appreciate their continued dedication and perseverance which is needed to ensure we remain vigilant keepers of the process.

Sincerely,



SOPHIE PIERRE OBC
CHIEF COMMISSIONER

Our Perspective

The simple answer is the return on investment is yet to be fully realized, but it will be significant.

3R's for Treaty Completion: Recommit, Ratify, Resolve

Treaties will bring a $10 billion cash injection, new investment and jobs, and a better future for First Nations and all British Columbians.

Ultimately, it is the responsibility of the governments of Canada, British Columbia and First Nations to answer the question: "How can we realize a significant return on the investment we have made in treaty making in BC?"

We believe the answer is straightforward — recommit to treaty making, ratify final agreements and agreements in principle, and resolve the overlaps on shared territory. Success in these areas will ensure there is a return on the investment the parties have made in the BC treaty process over the past 19 years.

RECOMMIT

In the interests of resolving this 140-year-old land and governance issue, public recommitment by all parties to the BC treaty process should be a centrepiece of the 20th anniversary. This recommitment must come from the highest levels. The Prime Minister, in particular, has an opportunity on the national stage to show that the Government of Canada is committed to reconciliation with First Nations and has the political will to conclude fair and honourable treaties in British Columbia.

The 20th anniversary is an ideal time to think about changes in treaty negotiations that will result in greater progress towards treaties. It will be a time to acknowledge the visionaries who had the foresight to create a made-in-BC answer to the Land Question and to celebrate the achievements and the treaties that have been completed.

The work being conducted now on treaty revitalization by senior officials will be important in charting this path forward. So too will be the federal government's review of the comprehensive claims process being conducted with the Assembly of First Nations. The made-in-BC treaty process must be recognized as distinct and addressed as part of this larger national review.

The BC treaty process is facing significant obstacles, for example the halt to fish negotiations, overlapping and shared territory issues among First Nations, and competing provincial government reconciliation processes.

The federal freeze on fish negotiations, in the wake of the Cohen Commission of inquiry, is a major obstacle. More must be done to overcome this delay, which is not likely to end when the Cohen inquiry is completed. It is more likely that the federal government will require a lengthy period of review to consider the findings and recommendations of the commission.

The federal government must provide options for First Nations that address the lengthy delay caused by a combination of the federal review of the west coast commercial fisheries begun in 2007, the subsequent Cohen inquiry and the government's review that will inevitably follow. Together these processes add up to four years in which the treaty process has been without a federal mandate on fish.

The Treaty Commission has asked the federal government to deliver a new mandate on fish for treaty negotiations or provide an immediate exemption to First Nations close to completing agreements. The federal government has proposed 'carve out' language, in which the substantive elements of the fish chapter are removed until later, after the final agreement has been completed. The challenge is how to recognize the aboriginal right to fish and management of those rights for the benefit of First Nations, while finalizing a treaty.

The federal government is tabling its new approach to recognition that was announced in March 2010. This has the potential to make a positive impact on treaty negotiations. But, the treaty language must still be negotiated by the parties and should be given priority.

RATIFY

The Government of Canada has demonstrated it can move quickly, for example, its passage in 2010 of the Maa-nulth First Nations Final Agreement in just four days. The opposite has also been true. For example, the federal government took more than 14 months to begin steps to initial the Sliammon First Nation Final Agreement that was completed in June 2010. There was a similar delay in initialling the Yale First Nation Final Agreement.

Some confidence may be restored as a result of the federal decision to proceed with Sliammon, but questions remain about the federal government's commitment to treaty making.

Federal government attempts at treaty tables to rescind or significantly alter that which has already been negotiated and agreed upon elsewhere in BC or the country will further erode trust.

When parliament resumes this fall, quick passage of the Yale First Nation Final Agreement would be the ideal outcome. The agreement has already been ratified by Yale First Nation members and the BC legislature. This too may restore some confidence in the BC treaty process.

The Treaty Commission welcomes efforts by the BC government to reconcile First Nations rights and interests on the land through various processes such as Reconciliation Agreements and Strategic Engagement Agreements.

At the same time, these other processes run the risk of becoming a distraction to the longer term goal of lasting reconciliation through modern treaties. Harmonizing these various processes would complement rather than compete with the treaty process. The Treaty Commission has noted the potential for several Incremental Treaty Agreements (ITAs), which may be more closely linked to milestones in treaty negotiations. One new ITA, expected to be completed soon by the BC government with Nazko First Nation, will be the first such agreement since March 2009.

RESOLVE

A pressing issue for First Nations in reaching final agreements is resolving overlapping claims on shared territories. Proposed power and resource development projects have pitted First Nation against First Nation in disputes over jurisdiction in contested traditional territories and over the appropriate uses of the land. Uncertainty over land ownership and jurisdiction has the potential to drive away investment and development that may benefit First Nations and regional economies.

It will take especially strong resolve for the First Nations Summit to push progress on territorial issues while supporting the conclusion of final agreements. First Nations will require resources and support to address these difficult issues. The Treaty Commission is doing what it can and federal funding has been helpful. The BC government has much to gain from the resolution of territorial disputes and therefore should also fund First Nations to do this work.

The Prime Minister, the Premier and First Nation leaders must signal that they have the willingness to overcome obstacles and reach lasting reconciliation. Without a recommitment at the highest levels the parties may not have the political will to resolve issues that stand in the way of modern-day treaties with many more First Nations.

The lack of urgency in treaty negotiations, for which all parties must share some of the responsibility, remains a concern for the Treaty Commission. One treaty came into effect in 2009, another in 2011, and a third is expected in 2013 – not the results that were expected through a made-in-BC treaty process.

TREATY REVITALIZATION

Senior officials for the Principals have been directed to recommend improvements to the treaty process by January 2012. Topics for treaty negotiation revitalization include building First Nations capacity for governance after treaty, streamlining the treaty process, resolving First Nation overlaps on shared territory, and clarifying the role of the Treaty Commission.

COMMON TABLE

First Nations had been exploring ways to make progress in treaty negotiations. The result was the establishment of a Common Table in 2008 to collectively negotiate aspects of treaties that First Nations had grown frustrated with trying to negotiate on their own. Negotiators for more than 60 First Nation communities met with the governments of Canada and BC in sessions chaired by the Treaty Commission over 13 days. The Common Table continues to provide a forum for First Nations to discuss aboriginal rights and title issues among themselves and with representatives for the governments of Canada and British Columbia.

First Nation representatives of the Common Table recently proposed an approach for treaty purposes on Recognition and Certainty for consideration by the governments of Canada and BC.

CURRENT SITUATION

There are 60 First Nations comprising 110 *Indian Act* bands currently in the treaty process.

- 2 First Nations have implemented treaties — Tsawwassen First Nation and Maa-nulth First Nations
- 3 First Nations have completed final agreements, but the parties have not yet completed ratification — Lheidli T'enneh First Nation, Sliammon First Nation and Yale First Nation
- 2 First Nations are close to concluding final agreements — In-SHUCK-ch Nation and Yekooche Nation
- 1 First Nation has completed an agreement in principle — K'omoks First Nation
- 8 First Nations are in advanced agreement in principle negotiations — Homalco Indian Band, Ktunaxa/Kinbasket Treaty Council, 'Namgis Nation, Nazko First Nation, Te'Mexw Treaty Association, Tla-o-qui-aht First Nation, Tsimshian First Nations and Wuikinuxv
- 26 First Nations are actively engaged in treaty negotiations
- 18 First Nations are not currently engaged in treaty negotiations.

Several celebrations occurred on April 1, 2011 to mark the effective date of the Maa-nulth First Nations treaty. These were significant events for the BC treaty process as this is the first multi-First Nation group to complete a final agreement.

SPECIAL INITIATIVES

The Treaty Commission is open to new ways to assist First Nations as they approach agreements in principle, final agreements and treaty implementation. One priority has been to assume a much larger role in assisting First Nations as they work towards resolving overlaps on shared territory. Another is an evolving role that assists First Nations as they prepare for self government after treaty by completing strategic human resource planning.

HISTORIC ACCORD

An historic accord between Tseshaht First Nation and Maa-nulth First Nations shows that treaty rights and aboriginal rights can co-exist. The way in which those rights co-exist is a decision to be made by the First Nations. Honouring historic Nuu-chah-nulth laws, traditions and protocols, the Tseshaht First Nation and the five Maa-nulth First Nations signed an accord just two days before the effective date of the Maa-nulth treaty.

The Treaty Commission's active participation in these discussions was made possible as part of its larger initiative that was funded by Aboriginal Affairs and Northern Development Canada (AANDC). Funding helps First Nations to resolve territorial issues, especially those First Nations in the advanced stages of treaty negotiations. Discussions can occur between First Nations inside and outside the treaty process with facilitation by commissioners and Treaty Commission staff as required.

The Treaty Commission has provided assistance to a long list of First Nations that are committed to developing, restoring or restating arrangements for sharing territory. First Nations in advanced treaty negotiations that have received support include In-SHUCK-ch Nation, Yale First Nation, Yekooche First Nation, K'omoks First Nation, Homalco Indian Band, Nazko First Nation, and Wuikinuxv Nation. Several more First Nations inside and outside the treaty

process are also working to resolve territorial issues. Agreement is not always possible, but First Nations and the Treaty Commission are now much more engaged on this issue.

CONFLICT RESOLUTION WORKSHOPS

The Treaty Commission teamed with Royal Roads University in Victoria to present workshops for First Nations on conflict resolution as part of its initiative to address overlaps on shared territories among First Nations.

The two, two-day workshops attracted chiefs, councillors, treaty negotiators, treaty team members and First Nation administrative staff. *Conflict Resolution: Building on Cultures of Peace and Harmony* explored the dynamics of conflict and competing interests that create and sustain conflict. Participants learned about communication traps and non-confrontational strategies to peacefully explore options to resolve conflict.

First Nations participants have expressed interest in receiving more training.

HUMAN RESOURCES CAPACITY TOOL FOR FIRST NATIONS

A tool to assist First Nations with strategic human resource planning has been developed by the Treaty Commission in partnership with the Kaska Dena Council. Entitled *A Human Resource Capacity Tool for First Nations: Planning for Treaty*, it has been piloted in workshops with First Nations.

The human resource capacity tool is a practical way for First Nations to assess their readiness for self governance after treaty given their own priorities, capacities, and traditions of governance. First Nations can modify the tool to meet their unique needs and circumstances.

The tool and pilot workshops were funded in part by the provincial Ministry of Aboriginal Relations and Reconciliation. The tool will be distributed to First Nations later this year at no cost and further suggestions on how to use it will be available from the Treaty Commission.

Workshops will be held by the Treaty Commission as resources permit.

Looking Ahead

Treaty negotiations in British Columbia are distinct and unlike negotiations in other parts of the country.

Build on made-in-BC Approach

The BC Claims Task Force understood that no process for negotiations can be successful without the serious resolve and commitment of all three parties to reach agreement. A recommitment to treaty negotiations will be an important expression of that resolve as we approach the 20th anniversary of the treaty process.

The governments of Canada and BC, especially, will be judged on how they match their commitment with sufficient resources to support the treaty process. Adequate funding is an important issue for First Nations as it enables First Nations to negotiate on a fair and even footing with the other governments. The Treaty Commission takes seriously its responsibility to fairly allocate funds to First Nations for treaty negotiations and ensure there is no interference or undue influence from the governments of Canada and BC respecting those decisions.

The parties must confirm their commitment to the made-in-BC treaty process given the unique historical circumstances of First Nations in this province. Treaty negotiations in British Columbia are distinct and unlike negotiations in other parts of the country. Pan-Canadian approaches to funding treaty negotiations, treaty implementation or ongoing fiscal arrangements run contrary to the spirit of flexible negotiations in the BC treaty process.

The Treaty Commission shares the view expressed by the BC Claims Task Force that early implementation of interim agreements may provide the parties with an opportunity to demonstrate good faith, build trust and establish a constructive relationship.

Interim agreements may also provide early resolution to issues which are a source of conflict and provide economic benefits. However, the parties must consider how the agreement supports negotiations or can be linked to the treaty. Interim agreements are just that — time limited and temporary — and First Nations and government must not lose sight of the goal of lasting reconciliation through a treaty. On balance, however, the advantages of interim agreements, including bilateral agreements, appear to outweigh the disadvantages.

The Treaty Commission encourages the parties to consider interim agreements that can improve the situation for a First Nation and its people until there is a treaty in place. The current commitment to interim measures from the governments of Canada and BC is a good step, but should not delay or distract the parties from making progress on comprehensive agreements.

The Treaty Commission recognizes that court decisions will continue to inform the parties in treaty negotiations. While negotiations are preferred to litigation, court action is sometimes seen as a means to further define the aboriginal rights which First Nations seek to have recognized in treaties.

As an alternative to litigation, the Treaty Commission will be more aggressive in proposing dispute resolution at tables where there is no progress in negotiations.

Commissioners and staff are increasingly involved in discussions among First Nations regarding overlapping claims on shared territory. When the treaty process was first established, it was expected that First Nations would resolve these issues among themselves. For First Nations in the treaty process, it was expected that some Negotiation Support Funding would be used to resolve overlaps. First Nations outside the treaty process do not receive funds to participate in these discussions, which can involve travel for elders, leaders, negotiators and community members, as well as accommodation and meals. First Nations in the treaty process do not receive sufficient funding to meet with other First Nations or benefit from expert mediation services.

Many First Nations have benefitted from special, one-time "overlap" funding provided to the Treaty Commission by AANDC. The Treaty Commission has made a new request for the funding to continue so that First Nations can resolve these issues thereby creating more certainty and predictability in treaty negotiations. It would also assist First Nations in ensuring that these issues do not derail economic and other benefits to their communities. Funding would support overlap talks among First Nations, both inside and outside the treaty process. The Treaty Commission has asked the BC government to support these efforts, as it stands to gain as much as the other parties, if not more, through the certainty that comes from resolving these territorial disputes.

Human resource planning is essential as First Nations prepare to become self governing. The Treaty Commission has developed a tool which can assist First Nations, and as time and resources permit, will host workshops to familiarize community members with the tool. The Treaty Commission is seeking funding from the governments of Canada and BC to fund the workshops, which it believes will ease the path to implementation and ensure greater participation in government by First Nation members.

First Nations seek to Restore Territorial Relationships

High-profile disputes between First Nations, over control of land in areas where resource projects are proposed or treaties are being completed, are bad news for all British Columbians.

The uncertainty caused by competing First Nation claims or the lack of an accord makes it more difficult to even consider resource projects in British Columbia. Treaty negotiations, already difficult and time-consuming, are complicated by territorial issues among First Nations.

Treaties seek to bring certainty to land ownership and jurisdiction so that everyone knows who owns the land and the rules for development.

Some First Nations seeking treaties have been challenged in court by neighbouring First Nations on the basis of overlapping claims to territory. There are First Nations that believe the way to deal with overlaps is to stop the ratification of a treaty until the issues are resolved by the BC government or by a court after a full hearing of the issues. No First Nation has been successful in stopping a treaty from being ratified, and legal action only distracts the parties in treaty negotiations.

Disputes may damage relations among First Nations and opportunities for mutual economic benefit may be lost. Where First Nations do not agree on the merits of a proposed land use or resource project, reaching agreement on territorial issues is understandably much more difficult.

Traditional territories can and do overlap and may arise from many causes; a tradition of sharing territory for harvesting, hunting, fishing or gathering; movements of families or tribes; or longstanding disputes. The imposition of reserves and *Indian Act* band governance by the Government of Canada has further complicated relationships among and within First Nations.

Where a protocol, accord or other understanding of mutual sharing among First Nations is reached, and acknowledged for treaty purposes, then the Fist Nations place in, and say over, the shared territory is strengthened.

If there are significant unresolved overlaps, then First Nation jurisdiction is in question. Recognizing the importance of resolving these issues, some First Nations have agreed on their respective territories and rights with their neighbours.

Just two days before the effective date and treaty celebrations for the five Maa-nulth First Nations, an historic accord was reached with Tseshaht First Nation. Honouring historic Nuu-chah-nulth laws, traditions and protocols, the First Nations signed an accord respecting their aboriginal and treaty rights within Barkley Sound.

The accord, which honours common kinship ties respecting the traditional territory of the Barkley Sound tribes, was reached in five weeks with the active participation of the Treaty Commission. While not all issues have been resolved between the First Nations, the resulting goodwill should make subsequent issues easier to address.

Tseshaht Chief Councillor Les Sam said the objective all along was to be able to stand beside the Maa-nulth people at the treaty celebrations in Port Alberni.

Uchucklesaht Chief Councillor Charlie Cootes said the Maa-nulth First Nations were happy to have their relatives standing with them as they implement the treaty.

In some cases the Treaty Commission has funded First Nations to resolve the issues among themselves and has provided facilitation as required. Where mediation is desirable, the Treaty Commission has enlisted expert mediators.

In 2008 the Treaty Commission arranged for retired BC Court of Appeal Justice Lambert to facilitate discussion of territorial issues between Tsawwassen First Nation and Cowichan Tribes. At issue was harvesting rights in the Gulf Islands that were set out in the Tsawwassen First Nation Final Agreement. The use of a mediator, and strong leadership from Tsawwassen Chief Kim Baird and Cowichan Tribes Chief Lydia Hwitsum and community members, resulted in a harvesting agreement.

The basic aim of the Tsawwassen-Cowichan agreement is to establish an ongoing framework for resolving issues regarding harvesting rights, conservation and management of resources. Where issues cannot be resolved through informal discussions, the agreement provides for mediation and arbitration. While it is likely that issues between the First Nations will continue to arise, the agreement is a good starting point to address them.

Many First Nations are trying to resolve overlap issues in traditional and culturally appropriate ways involving elders and families. Additionally, the Treaty Commission has had some success in bringing First Nations together to resolve their territorial issues in meetings with the leaders.

With a third treaty soon to be ratified, there is recognition that treaties are achievable. Tsawwassen and Maa-nulth First Nations, in achieving treaties, understood the importance of addressing territorial issues.

Parliament is expected to ratify the Yale First Nation Final Agreement this fall, but issues with neighbouring Sto:lo First Nations in the Fraser Valley are yet to be resolved. The BC government ratified the treaty following four hours of debate over two days in the legislature. Much of the debate focused on Sto:lo opposition to the Yale treaty over access to historic fishing sites on a stretch of the Fraser River. The Treaty Commission was involved in talks between the two parties to resolve the access issue, but no agreement has yet been reached.

"We're encouraging First Nations to look at their traditional ways of dealing with these issues," said Chief Commissioner Sophie Pierre. "We're here to provide an opportunity for them to find a facilitated or mediated solution."

The Treaty Commission, based on its experiences with overlaps so far, is requesting special funding from AANDC and the BC government to step up its efforts and to assist First Nations in seeking their own solutions. The Treaty Commission, with limited resources, has been promoting both old and new approaches to shared territory issues and overlaps, including dispute resolution.

There is a growing list of First Nations engaging in overlap discussions with assistance from the Treaty Commission. The priority has been First Nations close to reaching final agreements or agreements in principle.

Tla-o-qui-aht and Nazko are two First Nations in advanced agreement-in-principle negotiations that are motivated to resolve territorial issues with their First Nation neighbours who are not in the treaty process.

The Treaty Commission had secured funding from AANDC in the previous fiscal year to ensure meetings could take place between First Nations in the treaty process and those that are not.

Tla-o-qui-aht on Vancouver Island near Tofino and their neighbours Ahousaht are meeting with the assistance of the Treaty Commission to resolve territorial issues on Meares Island.

Nazko First Nation, whose territory lies west of Quesnel, and their neighbours Red Bluff Band (Lhatko Dene Nation) have met several times to discuss territorial issues with assistance from the Treaty Commission.

In both of these examples, the Treaty Commission is providing both financial and human resources to facilitate discussions on overlaps.

The Treaty Commission will continue to assist First Nations in resolving overlaps on shared territory as time and resources permit.

To further assist First Nations the Treaty Commission joined with Royal Roads University to offer two-day workshops for community leaders in conflict resolution. Participants learned about 'communication traps' and non-confrontational strategies to peacefully explore options to resolve conflict.

STATUS REPORT

There are 60 First Nations, including 110 Indian Act bands, in the BC treaty process.

FIRST NATIONS WITH IMPLEMENTED FINAL AGREEMENTS [2]

Tsawwassen First Nation
Maa-nulth First Nations

FIRST NATIONS WITH COMPLETED FINAL AGREEMENTS [3]

Lheidli T'enneh First Nation
(second vote by First Nation planned)
Sliammon First Nation
(First Nation to vote)
Yale First Nation
(ratified by First Nation and BC government)

FIRST NATIONS IN ADVANCED FINAL AGREEMENT NEGOTIATIONS [2]

In-SHUCK-ch Nation
Yekooche Nation

FIRST NATIONS WITH COMPLETED AGREEMENTS IN PRINCIPLE [1]

K'omoks First Nation

FIRST NATIONS IN ADVANCED AGREEMENT IN PRINCIPLE NEGOTIATIONS [8]

Homalco Indian Band
Ktunaxa/Kinbasket Treaty Council
'Namgis Nation
Nazko First Nation
Oweekeno Nation
Te'Mexw Treaty Association
Tla-o-qui-aht First Nation
Tsimshian First Nations

FIRST NATIONS IN ACTIVE TREATY NEGOTIATIONS [26]

Acho Dene Koe First Nation
Council of the Haida Nation
Da'naxda'xw Awaetlatla Nation
Ditidaht First Nation and Pacheedaht Band
Esketemc First Nation
Gitanyow Hereditary Chiefs
Gitxsan Hereditary Chiefs
Gwa'Sala-'Nakwaxda'xw Nation
Haisla Nation
Homalco Indian Band
Hul'qumi'num Treaty Group
Kaska Dena Council
Katzie Indian Band
Klahoose First Nation
Laich-Kwil-Tach Council of Chiefs
Lake Babine Nation
Northern Shuswap Treaty Society
Quatsino First Nation
Snuneymuxw First Nation
Sto:lo Xwexwilmexw Treaty Association
Taku River Tlingit First Nation
Tlatlasikwala Nation
Tlowitsis First Nation
Tsay Keh Dene Band
Tsleil-Waututh Nation
Wet'suwet'en Nation

FIRST NATIONS NOT CURRENTLY NEGOTIATING A TREATY [18]

Allied Tribes of Lax Kw'alaams
Carcross / Tagish First Nation
Carrier Sekani Tribal Council
Champagne and Aishihik First Nations
Cheslatta Carrier Nation
Heiltsuk Nation
Hupacasath First Nation
Hwlitsum First Nation
Kwakiutl Nation
Liard First Nation
McLeod Lake Indian Band
Musqueam Nation
Nuu-chah-nulth Tribal Council
Ross River Dena Council
Sechelt Indian Band
Squamish Nation
Teslin Tlingit Council
Westbank First Nation

IMPLEMENTED TREATIES

FIRST NATIONS WITH IMPLEMENTED FINAL AGREEMENTS (2)

TSAWWASSEN FIRST NATION

The Tsawwassen First Nation Final Agreement was implemented on April 2, 2009.

MAA-NULTH FIRST NATIONS

The Maa-nulth First Nations Final Agreement was implemented on April 1, 2011

COMPLETED TREATIES

FIRST NATIONS WITH COMPLETED FINAL AGREEMENTS (3)

LHEIDLI T'ENNEH FIRST NATION

Lheidli T'enneh has a completed final agreement that was rejected by members in 2007. A tripartite meeting was held in September at which time the First Nation indicated further community consultation would be required before a second vote.

The Lheidli T'enneh traditionally occupied the land and water around Prince George, including the Nechako and Fraser River area to the Alberta border. They have 336 members.

SLIAMMON FIRST NATION

Sliammon First Nation has concluded treaty negotiations with Canada and BC. The parties have finalized all legal language and intend to have a formal initialling ceremony soon. Sliammon First Nation will then schedule a ratification vote, likely in spring 2012. The vote will be preceded by community consultation so that members are well informed about the content and implications of the treaty. If approved, the treaty is to include 8,322 hectares of settlement land, almost $30 million in cash, an additional $7 million for an economic development fund, as well as funds for other projects. Settlement lands comprise nearly 70 kilometres of waterfront.

Sliammon First Nation has a population of approximately 1,000 and traditionally occupied and used the lands and waters in the vicinity of Powell River and Powell Lake and parts of the Gulf Islands, the Courtenay area and Desolation Sound.

YALE FIRST NATION

The Yale First Nation Final Agreement has been ratified by its members and passed in the BC Legislature. It now awaits passage through Parliament. The parties expect that Parliament will ratify the agreement this fall. Implementation will begin soon after. The treaty includes 1,749 hectares of Crown land and existing reserve lands for a total of 1,966 hectares with a capital transfer of $10.7 million and economic development funding of $2.2 million. Yale will have the right to harvest fish, wildlife and migratory birds and to gather plants in their traditional territory.

Yale has a population of more than 150 members and traditionally used and occupied the land around Yale and in the Fraser Canyon, north of Hope.

ADVANCED FINAL

FIRST NATIONS IN ADVANCED FINAL AGREEMENT NEGOTIATIONS (2)

IN-SHUCK-CH NATION

The parties at the In-SHUCK-ch table were close to completing a final agreement in December 2009, when Douglas First Nation voted to withdraw from negotiations. Since then the parties have been exploring potential solutions.

In-SHUCK-ch Nation traditionally occupied and used the land generally located between the

middle point of Harrison Lake, northward to the middle point of Lillooet Lake and has 940 members.

YEKOOCHE NATION

Yekooche is waiting for the Government of Canada to be in a position to negotiate fish which is the remaining outstanding issue in reaching a final agreement. Fish negotiations were interrupted when the Cohen Commission of inquiry was struck by the federal government in 2010.

Yekooche continues to work on community renewal and territorial issues with its First Nation neighbours.

Yekooche First Nation has a population of approximately 220 and traditionally occupied and used lands and waters near Stuart Lake, Cunningham Lake and the southern portion of Lake Babine.

COMPLETED

FIRST NATIONS WITH COMPLETED AGREEMENTS IN PRINCIPLE (1)

K'OMOKS FIRST NATION

K'omoks First Nation ratified an agreement in principle (AiP) in March 2011 with 74% of members voting yes. Following approval of the AiP by the parties, land at Mount Washington and Union Bay is to be transferred to K'omoks and $4 million will be available to purchase private land as future treaty settlement land. The parties were able to overcome a pressing issue regarding K'omoks' interest in acquiring overland access to the western tip of its land on Goose Spit.

K'omoks also worked extensively on three Treaty-Related Measures that support economic development initiatives, shellfish and aquaculture, and comprehensive community planning.

K'omoks First Nation has approximately 300 members. Their traditional territory spans the central eastern part of Vancouver Island, extending into Johnstone Straight.

ADVANCED

FIRST NATIONS IN ADVANCED AGREEMENT IN PRINCIPLE NEGOTIATIONS (8)

HOMALCO INDIAN BAND

The Homalco table is working to conclude an agreement in principle. Homalco's focus on economic development including, forestry, eco-tourism and an Impacts Benefits Agreement with a major independent power project company has been successful in asserting the First Nation's influence in their traditional territory and informing their land selection for treaty settlement. Homalco received Treaty Commission special funding this year and, as a result, has made progress with neighbouring First Nations on shared territory protocol agreements.

Homalco has a population of approximately 460 people. The lands and waters traditionally occupied and used by the Homalco people extend from Phillips Arm, west of the mouth of Bute Inlet, to Raza Passage and Quantum River, and to Stuart Island and Bute Inlet and its watershed.

KTUNAXA / KINBASKET TREATY COUNCIL

The Ktunaxa/Kinbasket Treaty Council (KKTC) continues to negotiate chapter language. In October 2010 KKTC received a land and cash offer and are reviewing the offer with the communities. Also, in October 2010, the BC government and KKTC signed a Strategic

Engagement Agreement (SEA) that provides for government-to-government discussion on natural resource decisions within Ktunaxa territory.

The Ktunaxa/Kinbasket Treaty Council includes the Lower Kootenay Indian Band, Columbia Lake First Nation, St. Mary's Indian Band, and Tobacco Plains Band. They have a combined population of approximately 1,000 members and their traditional territory lies between the Rocky Mountain Trench and the Upper Arrow Lakes together with adjacent watersheds.

'NAMGIS FIRST NATION

The 'Namgis Nation table is continuing negotiations on an agreement in principle (AIP). The delay in discussions on fish has slowed progress at the table. Recently, Canada tabled fish deferral language that is being reviewed by 'Namgis. 'Namgis is also assessing the implications of the economic opportunities and impacts of treaty settlement. Work on issues including proposed land settlement, fiscal and tax arrangements, collaborative management approaches, and reasonable opportunity are ongoing.

The 'Namgis traditional territory is at the north end of Vancouver Island and extends from the Nimpkish watershed to the east and west. More than half of their approximately 1,675 members live at Alert Bay on Cormorant Island.

NAZKO FIRST NATION

Nazko is near completion of an Incremental Treaty Agreement (ITA) and is anticipating an agreement in principle can be reached soon after. Nazko has experienced some delay in the signing of the ITA, but the BC government anticipates the agreement will be successfully completed soon.

Nazko received special funding from the Treaty Commission to meet with neighbouring First Nations over shared-territory issues. The Treaty Commission facilitated an elders meeting in September and is hopeful that the First Nations will make steps towards reaching a mutually agreeable resolution.

Nazko has a population of approximately 360 members and its traditional territory extends from southwest of Quesnel to Prince George in the north.

WUIKINUXV NATION

Wuikinuxv is negotiating to conclude an agreement in principle. The First Nation is expecting the governments of Canada and BC to provide a revised offer as a result of Wuikinuxv's response to the 2009 land and cash offer. The parties are making good progress on chapter language. A few obstacles remain in reaching an agreement in principle including, co-management that is consistent with agreements Wuikinuxv has signed outside of the treaty, amount of land and fish issues.

Wuikinuxv has approximately 280 members, a third of whom live on reserve at River's Inlet.

TE'MEXW TREATY ASSOCIATION

The Te'Mexw table is continuing negotiations on an agreement in principle. The table has seen two Crown offers and a Te'Mexw counterproposal, but agreement has not been achieved and outstanding issues remain. A major obstacle for the Songhees and Beecher Bay First Nations is the lack of surplus Crown lands in the southern Vancouver Island area.

The Te'Mexw Treaty Association represents five First Nations: Malahat, Scia'new (Beecher Bay), T'sou-ke (Sooke), Snaw-naw-as (Nanoose) and Songhees. Their common bond is that they are signatories to the Douglas Treaties. Their combined population is 1,515.

TLA-O-QUI-AHT FIRST NATION

The Tla-o-qui-aht First Nations treaty table has made considerable progress this year and is in the advanced stages of agreement-in-principle negotiations. The table has identified outstanding issues that are holding them back from an AIP and have created a plan to work through them.

The Government of Canada's decision not to discuss fish is a significant issue. However, the parties have agreed to put off fisheries discussions until final agreement negotiations.

The traditional territory or *Haahuulthii* of the Tla-o-qui-aht First Nations extends from the Tofino area west into the sea, down to Kennedy Lake in the south, Adder Mountain in the east and the area around Rhine Peak in the north. Tla-o-qui-aht has approximately 1,000 members.

TSIMSHIAN FIRST NATIONS

Two of the five Tsimshian First Nation communities have taken an expedited approach to negotiations. Kitselas and Kitsumkalum are making substantial progress towards an agreement in principle and expect to complete those negotiations early in the New Year.

Kitasoo/Xaixais First Nation and Metlakatla First Nation have restarted treaty negotiations and are meeting on a regular basis with a view to reaching an agreement in principle.

The Tsimshian First Nations' territory spans the northwest coast, including Prince Rupert and Terrace and comprises five communities: Gitga'at, Kitasoo/Xaixais, Kitselas, Kitsumkalum and Metlakatla First Nations, with a combined population of approximately 3,150.

ACTIVE

FIRST NATIONS IN ACTIVE TREATY NEGOTIATIONS (26)

ACHO DENE KOE FIRST NATION

Acho Dene Koe (ADK) entered the BC treaty process in 2000 with a claim that spans three jurisdictions: BC, Yukon and NWT. The BC government has not negotiated and continues to assess its internal mandate on trans-boundary claims. The Treaty Commission continues to strongly urge BC to develop a mandate for negotiations with ADK, but no solution has been brought forward as yet.

The First Nation has approximately 670 members and its traditional territory spans a vast area within BC, the NWT and Yukon. The main, modern-day settlement is Fort Liard, a village 25 kilometres north of the BC/Northwest Territories border. ADK maintains a small settlement at the historic community of Francois in northern BC.

COUNCIL OF HAIDA NATION

The Council of the Haida Nation (CHN) and the governments of BC and Canada have completed several reconciliation agreements over the past three years. Notably, protocols such as the Strategic Land Use Agreement (2007), the Kunst'aa Guu–Kunst'aayah Reconciliation Protocol (2009), and the Gwaii Haanas Marine Agreement (2010) have re-confirmed the parties' mutual respect for one another's interests and have established shared decision-making models for the lands and waters of Haida Gwaii.

Most recently, the parties have furthered their reconciliation agenda by working towards an "umbrella agreement" that would comprise all existing protocols and agreements. Such an agreement could streamline existing processes, demonstrate how joint-management is effectively working on the ground, and further support reconciliation of the parties' interests.

The Haida people continue to occupy the lands and waters of Haida Gwaii. The Council of the Haida Nation represents 4,269 members.

DA'NAXDA'XW AWAETLALA NATION

Meetings were held over the past year, but table activity slowed down when the chief negotiators for the Government of Canada and Da'naxda'xw Awaetlala retired from the table. With the recent appointment of a senior federal negotiator by Canada and a new chief negotiator by Da'naxda'xw Awaetlala, it is expected that tripartite table activity will resume soon.

The Da'naxda'xw Awaetlala, numbering about 200 members, traditionally occupied the land and waters on the mainland across from northern Vancouver Island.

DITIDAHT FIRST NATION / PACHEEDAHT BAND

The Ditidaht and Pacheedaht First Nations are negotiating an agreement in principle together and have made significant progress in the last few years. The First Nations are currently negotiating an Incremental Treaty Agreement with the BC government, and are working towards agreement on language, lands to be transferred, and a transfer schedule.

Ditidaht has approximately 740 members, many of whom live on the Ditidaht reserve near Nitinaht Lake. Pacheedaht has 268 members with offices located in Port Renfrew. Their combined traditional territories span the southwest corner of Vancouver Island.

ESKETEMC FIRST NATION

The Esketemc treaty table is working on concluding an agreement in principle (AIP) next year. The parties have made progress on chapter language and continue to work collaboratively on Esketemc's vision for land management and self governance. Esketemc is committed to community consultation with clans, elders, youth, and department managers to inform the treaty negotiations. Esketemc, with funding from the Treaty Commission, is developing a shared territory protocol agreement with their Secwepemc neighbours.

The population of Esketemc is approximately 830 members and its traditional territory is centred on the community at Alkali Lake, 50 kilometres southwest of Williams Lake.

GITANYOW HEREDITARY CHIEFS

Little progress has been made in the past year in tripartite negotiations as a result of major differences between the parties. Gitanyow and the BC government have completed a draft Reconciliation Agreement (RA) for review by each of the two parties. This agreement may be the basis upon which the parties can move forward now that tripartite negotiations have resumed.

The traditional territory of the Gitanyow spans the middle reaches of the Nass River, and the Nation's population is approximately 790 members.

GITXSAN HEREDITARY CHIEFS

Tripartite negotiations are focused on the Gitxsan Alternative Governance Model (AGM) and how it might be incorporated in a comprehensive agreement.

Gitxsan traditionally occupied and used the land and water around the upper reaches of the Skeena and Nass rivers. The First Nation includes all or part of the populations of Gitanmaax Band, Gitsegukla Band, Kispiox Band, Gitwangak Band and Glen Vowell Indian Band and comprises approximately 6,300 members.

GWA'SALA-'NAKWAXDA'XW NATIONS

Since the dissolution of the Winalagalis Treaty Group in 2010, the Gwa'sala-'Nakwaxda'xw are

re-focussing treaty efforts within their community. Agreement-in-principle negotiations have moved along at a steady pace over the past year.

Gwa'sala-'Nakwaxda'xw Nations have approximately 900 members. They traditionally occupied the land and waters on the mainland across from northern Vancouver Island. Many members currently occupy the Tsulquate reserve near Port Hardy.

HAISLA NATION

The parties agreed to tripartite meetings following discussion on revitalizing the treaty table over the past year. After a delay to allow for Council elections, table meetings have been scheduled to determine how the parties want to proceed. Approaches and a work plan are to be considered.

Haisla Nation has a population of 1,685. Their traditional territory is on the central west coast near Kitimat.

HUL'QUMI'NUM TREATY GROUP

Tripartite activity in the past year was minimal. Hul'qumi'num Treaty Group (HTG) was a key participant in the Common Table discussions and the issues raised in that forum continue to be important at this table. The critical issue of availability of private land for treaty settlement remains a major obstacle to progress. The parties have recently agreed to form a working group to develop a work plan that addresses, amongst other items, land, governance and general provisions in an agreement in principle.

The BC government and HTG communities have begun discussions on specific pieces of the treaty that could be built incrementally towards a final agreement and that would support their reconciliation goals.

The HTG represents six communities including Chemainus, Cowichan Tribes, Halalt, Lake Cowichan, Lyackson, and Penelakut with a combined population of approximately 5,800 people. The First Nations assert that they traditionally occupied and used lands and waters encompassing part of southern Vancouver Island, the waters of the Strait of Juan de Fuca and the Strait of Georgia, and on the mainland along a narrow corridor extending from the coast to Yale in the east.

KASKA DENA COUNCIL

After some uncertainty and delays due to cross-border issues, the parties are working on solutions to ensure that negotiations at the Kaska table continue. Kaska and the BC government are negotiating an Incremental Treaty Agreement, and Kaska are working within their communities to identify parcels of land for potential transfer. They also developed a newsletter and set up a working group on community issues to address concerns raised at the negotiation table. Kaska has a federal Treaty-Related Measure that will allow it to implement human resource capacity development within one of their communities using the Treaty Commission's Human Resource Capacity Tool. The tool was built in partnership with the First Nation.

The Kaska Dena Council represents the communities of Fort Ware, Kwadacha and Lower Post and is closely linked with the other Kaska Nations, the Liard First Nation and the Ross River Dena Council. The traditional territory of the Kaska peoples spans from north central BC into the Yukon and Northwest Territories.

KATZIE INDIAN BAND

Katzie First Nation and the governments of BC and Canada have participated in active negotiations and continue to work towards an agreement in principle. Katzie identified numerous parcels of land as potential treaty settlement lands, and the parties went on a lands tour in the summer of 2011. Katzie First Nation has taken over operation of a recreational site in Pitt Meadows after years of trying to do so.

The Katzie First Nation traditionally used and occupied lands and waters around Pitt Meadows, Maple Ridge, Coquitlam, Surrey, Langley and New Westminster. They have 504 members.

KLAHOOSE FIRST NATION

Klahoose resumed tripartite negotiations after a two-year hiatus. The parties have prepared a work plan with a heavy focus on lands. The parties have committed to meet regularly to negotiate chapter language.

Klahoose First Nation has approximately 325 members with its main community on Cortez Island, opposite Campbell River.

LAICH-KWIL-TACH COUNCIL OF CHIEFS

The parties' technical working group has made some progress on chapter language, and have documented the outstanding issues. Laich-Kwil-Tach has participated in the Common Table discussions and the unresolved issues, particularly around recognition and certainty, have slowed progress.

The three Laich-Kwil-Tach communities have also engaged in a mediation process, supported in part with funding from the Treaty Commission, to strengthen their internal governance processes and First Nation bonds. The First Nations will be testing two draft agreements on land use sharing and dispute resolution.

The Council of Chiefs comprises Kwiakah, Wei Wai Kai, and Wei Wai Kum. Traditionally these First Nations occupied and used the lands and water around Campbell River, Courtenay and Comox, including parts of Knight, Call, Loughborough, Bear and Toba inlets. Today their collective population is approximately 1,725 members.

LAKE BABINE NATION

Lake Babine Nation (LBN) and the BC government are near completion of an Incremental Treaty Agreement (ITA) and are focused on resolving the last few outstanding issues to conclude the agreement early this fall. LBN continues to meet on a tripartite basis but major gaps exist in the position of the parties that are impacting progress, including a lack of a federal mandate on fish. In the meantime, LBN has undertaken internal consultation with their five communities to develop their governance structure and constitution.

The shared territory dispute between Yekooche and Lake Babine has been escalating and is becoming a serious issue. The Treaty Commission has facilitated meetings between the two parties and will continue to pursue solutions, but little progress has been made to date.

Lake Babine Nation represents Woyenne, Old Fort, Tachet, Donald's Landing and Fort Babine. The combined population is approximately 2,300 members and their traditional territory spans the area from Burns Lake in the south to the Babine and Nilkitaw rivers to the north, including most of Lake Babine.

NORTHERN SHUSWAP TREATY SOCIETY

Activity at the Northern Secwepemc te Qelmeucw treaty table has been focused on areas of interest for Treaty Settlement Land (TSL) in order to narrow the substantial gap between NStQ's expectations and BC and Canada's mandate. The parties are working together to identify responsibilities off of treaty settlement land, such as collaborative management agreements with BC Parks. The complex issues around third party interests on NStQ's traditional territory continue to be discussed.

NStQ represents more than 2,240 people of Northern Secwepemc te Qelmeucw ancestry from four member communities: Williams Lake Band (T'exelc), Soda Creek Band (Xat'sull/'Cmetem), Canoe/Dog Creek Band (Stswecem'c/Xgat'tem) and Canim Lake Band (Tsq'escen').

QUATSINO FIRST NATION

Formerly a member of the Winalagalis Treaty Group that dissolved in 2010, the Quatsino First Nation decided to pursue treaty negotiations on their own. The table has had a low level of activity over the past year while an internal review of treaty participation is considered.

Quatsino has approximately 500 members and traditionally occupied the lands and waters around the north end of Vancouver Island.

SNUNEYMUXW FIRST NATION

After a low level of activity in 2010, the Snuneymuxw First Nation re-engaged the treaty table with special interest in reconciling their Douglas Treaty rights of 1854 with the modern treaty process. Particularly, they would like to see their Douglas Treaty rights to hunt and fish "as formerly" protected. The Government of Canada is unable to bring a fish mandate to the table, however, or even discuss fish due to the ongoing Cohen Commission of inquiry. This remains a critical obstacle to negotiations, although the parties continue to meet.

The Snuneymuxw First Nation's traditional territory spans eastern Vancouver Island, including Nanaimo, Gabriola Island, Mudge Island, and other islands in the vicinity of the Nanaimo watershed. They have 1,631 members.

STO:LO XWEXWILMEXW TREATY ASSOCIATION

The Sto:lo Xwexwilmexw Treaty Association (SXTA) table has progressed slowly because of the SXTA's disappointment with the governments' responses to Common Table issues. SXTA has also been focused on fish and access to fishing sites on the Fraser River, and its concern with the Yale Final Agreement.

The seven Sto:lo communities currently in treaty negotiations are: Aitchelitz, Leq'a:mel, Popkum, Skawahlook, Skowkale, Tzeachten and Yakweakwioose with approximately 1,230 members. The SXTA Statement of Intent includes the lower mainland of south western BC with a core interest area within the central and upper Fraser Valley, Chilliwack River Valley, lower Harrison Lake, and lower Fraser Canyon.

TAKU RIVER TLINGIT FIRST NATION

Taku River Tlinglit First Nation (TRTFN) negotiations have been slow as TRTFN concentrated on their land use planning agreement with the BC government. Since signing that agreement, TRTFN has concentrated on internal issues with their membership with a view to reinvigorating treaty negotiations. The other two governments remain committed to negotiations.

Taku River Tlingit First Nation has a population of approximately 400 and its traditional territory is situated in northwest British Columbia and southwest Yukon.

TLATLASIKWALA NATION

Formerly a member of the Winalagalis Treaty Group that dissolved in 2010, the Tlatlasikwala First Nation has continued treaty negotiations on their own. The table has since met regularly, and is currently considering a Treaty-Related Measure that would focus on post-treaty governance options.

Tlatlasikwala has about 70 members, and traditionally occupied the area in the northern tip of Vancouver Island.

TLOWITSIS FIRST NATION

The table has made substantial chapter progress as the parties work towards an agreement in principle. Tlowitsis has a citizen's advisory group that meets regularly to discuss treaty issues and provide information to community members. The First Nation is also planning to 'test drive' governance procedures that will be reflected in their constitution, which is being drafted and brought back to the community for further input.

Tlowitsis currently has no inhabited reserves, and has been identifying lands of interests to potentially establish a home community.

Tlowitsis has a population of 385 and its traditional territory spans part of northeastern Vancouver Island and an area on the mainland just northwest of Sayward.

TSAY KEH DENE BAND

Tsay Keh Dene took a hiatus from treaty negotiations during the past year to resolve internal matters and consult with their community. They have met with the governments of BC and Canada to discuss alternatives on how to address the gaps that have been preventing the parties from making substantial progress in negotiations and hope to proceed with a tripartite work plan. Tsay Keh Dene has presented the other two parties with a proposal to revitalize the table and re-engage in negotiations.

Tsay Keh Dene has a population of approximately 430 people and its traditional territory encompasses an area bounded by Mount Trace in the north, by South Pass Peak in the west, by the Nation River in the south and by Mount Laurier in the east.

TSLEIL-WAUTUTH NATION

The Tsleil-Waututh table has met regularly over the past year and made progress on several chapters of an agreement in principle. It has not yet been determined when an agreement in principle will be concluded.

Tsleil-Waututh Nation has 481 members who traditionally lived on the land and waters around North Vancouver and the Lower Mainland.

WET'SUWET'EN NATION

In October 2009, the Wet'suwet'en Nation decided to step back from treaty negotiations. They are currently focusing on internal work related to governance and no tripartite meetings had been scheduled at the time of this report.

The Wet'suwet'en traditionally occupied and used the Bulkley River drainage area in northwest BC. The First Nation includes members of Hagwilget village and Moricetown and has a population of approximately 2,700.

NOT NEGOTIATING

FIRST NATIONS NOT CURRENTLY NEGOTIATING A TREATY (18)

ALLIED TRIBES OF LAX KW'ALAAMS

There has been no tripartite activity at this table since mid-2005 when the Treaty Commission accepted the Statement of Intent of the Allied Tribes of Lax Kw'alaams.

The Allied Tribes of Lax Kw'alaams were formally part of the Tsimshian Tribal Council and separated in the spring of 2004. Located northwest of Prince Rupert, the Allied Tribes have a population of approximately 3,220.

CARCROSS / TAGISH FIRST NATION

Carcross Tagish's rights to the Yukon portion of its traditional lands and resources were confirmed in the final agreement signed in 1993 with the governments of Canada and Yukon. There have been no tripartite treaty negotiations in BC in more than a decade.

Carcross Tagish is one of three Yukon First Nations with interests in BC since 2000.

CARRIER SEKANI TRIBAL COUNCIL

There have been no tripartite negotiations for several years. The Tribal Council comprises eight First Nations including Burns Lake Indian Band (Ts'il Kaz Koh First Nation), Nadleh Whut'en Band, Nak'asdli Indian Band, Saik'uz First Nation, Stellat'en First Nation, Takla Lake First Nation, Tl'azten Nation and Wet'suwet'en First Nation.

The combined population of the First Nations is approximately 6,000 with traditional territory in excess of 90,000 square kilometres in north central BC.

CHAMPAGNE AND AISHIHIK FIRST NATIONS

Champagne and Aishihik's rights to the Yukon portion of its traditional lands and resources were confirmed in the final agreement signed in 1993 with the governments of Canada and Yukon. There have been no tripartite treaty negotiations in BC since 2000.

Champagne and Aishihik is one of three Yukon First Nations with interests in BC.

CHESLATTA CARRIER NATION

The Cheslatta Carrier treaty table remains inactive. There have been no tripartite treaty negotiations since 1997.

Cheslatta traditional territory encompasses the area around Ootsa and Eutsuk lakes in central BC.

HEILTSUK NATION

The Heiltsuk table remains inactive. There have been no treaty negotiations since 2001.

Heiltsuk is based on Campbell Island, with traditional territory extending across the central coast, and has approximately 2,235 members.

HUPACASATH FIRST NATION

There have been no tripartite treaty negotiations in the past two years.

Hupacasath with more than 250 members is located in the Port Alberni area of Vancouver Island.

HWLITSUM FIRST NATION

The Statement of Intent to negotiate a treaty submitted by Hwlitsum First Nation was accepted by the Treaty Commission in May 2008. The governments of Canada and BC have yet to make a commitment to negotiate with Hwlitsum.

Comprising more than 300 members, the traditional territory of the Hwlitsum First Nation encompasses a large portion of the Lower Mainland, Gulf Islands and a portion of Vancouver Island.

KWAKIUTL INDIAN BAND

The Kwakuitl Band has stepped away from the BC treaty process so that it can pursue claims under their Douglas Treaty.

The Kwakuitl Band has more than 600 members with approximately 300 members living in their community of Fort Rupert within their traditional territory on the northeastern shores of Vancouver Island.

LIARD FIRST NATION

Liard is a Yukon First Nation that has not completed a final agreement in the Yukon. There have been no tripartite treaty negotiations in BC.

The First Nation has interests in BC and is affiliated with the Kaska Nation which includes the Kaska Dena Council and Ross River Dena Council. The traditional territory of the Kaska people ranges from north central BC to the Yukon and Northwest Territories.

MCLEOD LAKE INDIAN BAND

There have been no treaty negotiations since 2005. The First Nation entered the BC treaty process in 2004 with a view to building self government on the McLeod Lake Treaty 8 Adhesion Agreement concluded in 2000.

The McLeod Lake Indian Band has approximately 500 members and its main community lies 150 km north of Prince George.

MUSQUEAM NATION

There have been no treaty negotiations during the past three years.

The First Nation has approximately 1,220 members with a traditional territory spanning the Greater Vancouver area.

NUU-CHAH-NULTH TRIBAL COUNCIL

The tripartite treaty table has not met since 2005. However, one of its members, the Tseshaht First Nation, recently signed an "Accord on Barkley Sound" with their neighbouring Maa-nulth treaty First Nations. The accord establishes how the parties will work together to make decisions about areas of their territories that overlap.

The Nuu-chah-nulth treaty table comprises the Ahousaht, Ehattesaht, Hesquiaht, Mowachaht/Muchalaht, Nuchatlaht and Tseshaht First Nations. Their combined population is 4,841 members. Their traditional territories span the west coast of Vancouver Island from Barkley Sound to Kyuquot Sound.

ROSS RIVER DENA COUNCIL

Ross River is a Yukon First Nation that has not completed a final agreement in the Yukon. There have been no tripartite treaty negotiations in BC.

The First Nation has interests in BC and is affiliated with the Kaska Nation which includes the Kaska Dena Council and Liard First Nation. The traditional territory of the Kaska people ranges from north central BC to the Yukon and Northwest Territories.

SECHELT INDIAN BAND

The last meeting between the parties was held in April 2007.

Sechelt has been self-governing since 1986 when it signed the first self government agreement in Canada, the Sechelt Indian Band Self Government Agreement. Sechelt, a First Nation with approximately 1,235 members, traditionally occupied and used the land and water around the Sechelt Peninsula.

SQUAMISH NATION

There have been no treaty negotiations for several years.

The traditional territory of the Squamish ranges from the Lower Mainland to Howe Sound and the Squamish valley watershed. The First Nation has approximately 3,675 members.

TESLIN TLINGIT COUNCIL

Teslin Tlingit's rights to the Yukon portion of its traditional lands and resources were confirmed in the final agreement signed in 1993 with the governments of Canada and Yukon. There have been no tripartite treaty negotiations in BC since 2000.

Teslin Tlingit is one of three Yukon First Nations with interests in BC.

WESTBANK FIRST NATION

Westbank has withdrawn from negotiations, but remains in the treaty process.

Located in the Kelowna area, Westbank has approximately 700 members.

About Us

The Treaty Commission devotes much of its time and resources to facilitation.

Keeper of the Process

The Treaty Commission is the independent commission responsible for facilitating treaty negotiations among the governments of Canada and British Columbia and First Nations in BC. As keeper of the process, the Treaty Commission does not negotiate treaties – that is done by the three parties at each negotiation table.

The Treaty Commission and the treaty process were established on September 21, 1992 by agreement of Canada, BC and the First Nations Summit. They are guided by the agreement and the 1991 Report of the BC Claims Task Force, which is the blueprint for the made-in-BC treaty process. The Treaty Commission was mandated to facilitate negotiations towards fair and durable treaties under the six-stage treaty process. The process is voluntary and open to all First Nations in BC.

The Treaty Commission has three roles: facilitation, funding, and public information and education.

Funding from the federal and provincial governments for the operating costs of the Treaty Commission for the 2010-2011 fiscal year was $2.55 million. Total funding for operations from 1993 to March 31, 2011 is approximately $38 million. The government of Canada contributes 60 per cent of the Treaty Commission's budget and the BC government contributes 40 per cent.

The Treaty Commission comprises a chief commissioner, four commissioners and 10 staff.

REPORT ON FACILITATION

The Treaty Commission's primary role is to oversee the negotiation process and to make sure the parties are being effective and making progress in the negotiations.

In carrying out this role, the Treaty Commission:

- Accepts First Nations into the treaty process and assesses when the parties are ready to start negotiations;
- Monitors and reports on the progress of negotiations and encourages timely negotiations;
- Chairs key meetings at tables and offers advice to the parties, where requested;
- Assists the parties in developing solutions and in resolving disputes;
- Identifies, engages with the Principals on, and reports publicly on opportunities and key overarching obstacles to progress (for example, on mandates, resources, capacity);
- Supports pilot projects with the potential to promote progress in negotiations; and
- Develops and applies policies and procedures for the six-stage treaty process.

The Treaty Commission devotes much of its time and resources to facilitation. Commissioners and staff are involved in a variety of facilitation initiatives, often on a sustained basis.

This demand has arisen from a number of circumstances:

- Intensified treaty negotiations at Stage 5 and some Stage 4 tables;
- Completion of final agreement negotiations and the ratification requirements for First Nations;
- Stalled treaty negotiations;
- Intensified inter-First Nation dialogue on overlapping and shared territories, particularly where treaty negotiations are approaching final agreement;
- Intensified internal First Nations dialogue, especially in multi-community First Nations on issues of shared territory, governance and capacity;
- Consultations between the Crown and First Nations affected by overlaps; and
- Principal-level discussions on common issues through processes such as the Treaty Negotiation Process Revitalization Table.

The Treaty Commission is also applying its knowledge and experience from facilitation to special initiatives that will benefit the treaty process and the parties to the negotiations with broader tools, such as:

- The Human Resource Capacity Tool, to assist First Nations in preparing for self-government;
- Resources and support to address overlapping and shared territory issues and to promote early resolution of these issues.

We anticipate the Treaty Commission's attention and energies will continue to be focused on:

- Overlapping and shared territory issues;
- Assisting First Nations that are completing final agreements with their ratification efforts;
- Principal-level discussions through the Treaty Negotiation Process Revitalization Table; and
- Launching the Human Resource Capacity Tool.

REPORT ON FUNDING

The Treaty Commission allocates negotiation support funding so that First Nations can prepare for and carry out treaty negotiations on a more even footing with the governments of Canada and BC. In general, for every $100 of negotiation support funding allocated, $80 is a loan from Canada, $12 is a contribution from Canada and $8 is a contribution from BC.

Since April 2004, First Nations have been able to accept just the non-repayable contribution or take any portion of their loan allocation. In every year since this change, several First Nations have chosen to accept fewer loan dollars than would have been required previously.

Contribution funding continues to be available to a First Nation until the effective date of a treaty. However, loan advances must stop at least thirty days prior to all three parties signing the final agreement.

Treaty loans, the first of which would have begun coming due in August, 2011, can be extended for a further five years if the First Nation agrees by signing an agreement with the Government of Canada and the Treaty Commission.

Since opening its doors in May 1993, the Treaty Commission has allocated approximately $533 million in negotiation support funding to more than 50 First Nations, representing approximately two-thirds of the First Nations in the province – approximately $422 million in loans and $111 million in non-repayable contributions.

REPORT ON PUBLIC INFORMATION AND EDUCATION

As the independent voice of treaty making in British Columbia, the Treaty Commission is uniquely positioned to provide public information. The governments of Canada and BC also share responsibility for public information. As well, the three parties in each set of negotiations – Canada, BC and First Nations – provide specific information on their treaty negotiations.

The governments of Canada and BC have funded the Treaty Commission to provide public information and education on treaty making in BC since 1997. To reach audiences throughout BC, the Treaty Commission provides a variety of communications tools, including a website, annual report, newsletters, special publications, DVDs and teaching materials for elementary and secondary schools.

Commissioners and treaty advisors regularly deliver presentations at special events and community forums and to business organizations, schools and post-secondary institutions.

In addition to providing up-to-date information on the current state of the treaty process, the Treaty Commission has an important role to play in supporting publication information efforts by individual treaty tables. To assist with these regular efforts, commissioners and treaty advisors regularly attend information forums with First Nation constituents and with the broader non-aboriginal community.

ADVERTISING

The Treaty Commission launched a two-week advertising campaign on 21 BC radio stations reaching more than 100 communities in March 2011 to raise awareness of the economic benefit of treaties:

"A major cash injection, new investment and a better future for First Nations – that's what treaties mean to British Columbia. And that's why British Columbians should support treaties now. To learn more visit the Treaty Commission website bctreaty.net."

Subsequent polling shows the message is being heard. Support for treaties is at its highest level since the Treaty Commission began surveying public opinion more than a decade ago.

When those surveyed were asked if they support or oppose making treaties with First Nations, 76 percent said they support treaties, including 40 percent who strongly support treaties. When asked what impact settling treaties will have on the provincial economy, 49 percent believed it would be positive. That is a 17 percent increase over survey findings in 2009 and 2010 and comes on the heels of the major campaign this year by the Treaty Commission to explain the economic benefits of treaties for all British Columbians.

In eight surveys conducted between 1999 and 2011, majority support for treaty making has been a constant in the province.

Awareness of the Treaty Commission is on the rise at 56 percent, including 52 percent who have some understanding of the organization's role in treaty making.

The telephone survey of 500 British Columbians was conducted during the first week of April by Mustel Research Group. The margin of error is plus or minus 4.5 percent at a 95 percent confidence rating.

LOCAL GOVERNMENT

The concerns of local government are a focus of attention for the Treaty Commission. Commissioners met earlier this year with representatives to the Lower Mainland Treaty Advisory Committee comprising 21 communities and one electoral area, as well as observers from the Sunshine Coast, Fraser Valley and Squamish-Lillooet communities. A treaty commissioner also met with representatives for the Prince George, Fraser Valley, Cariboo, Cowichan, Lower Mainland and Te'Mexw treaty advisory committees. Staff attended the provincial Community-to-Community forum co-hosted by the First Nations Summit and the Union of BC Municipalities (UBCM) and the Treaty Commission participated at the UBCM convention in September in Vancouver.

A long standing concern for local government is the lack of provincial funding for treaty advisory committees. Although not directly related to treaty making, the federal *First Nation's Commercial and Industrial Development Act* and *First Nations Certainty of Land Title Act* may impact local governments through lost tax revenue and a reduction in grants. Local government is concerned that private land will be lost with a subsequent loss of tax revenue and loss of grant money to local government. As well, the costs incurred to enter into servicing agreements with First Nations must be borne by local government.

NEW PUBLICATION

A new publication tells the story of the intergovernmental relationship between Sliammon First Nation and the City of Powell River. Powell River and Sliammon (Tla'amin) through a Community Accord and a Protocol Agreement on Culture, Heritage and Economic Development are leading the way in sustaining an intergovernmental relationship.

The Treaty Commission believes the Powell River-Sliammon experience over the past eight years is instructive for First Nations, local and regional governments that want to improve relationships within their regions.

Treaty Commissioners

SOPHIE PIERRE was appointed chief commissioner to a three-year term in April 2009 by agreement of the governments of Canada and British Columbia and the First Nations Summit. Pierre led the St. Mary's Indian Band for 30 years as elected chief and was the administrator of the Ktunaxa/Kinbasket Tribal Council for 25 years. She also served as the tribal chair of the Ktunaxa Nation Council, chairperson of the First Nations Finance Authority, president of St. Eugene Mission Holdings Ltd. and co-chair of the International Advisory Committee to the Indigenous Nations Institute for Leadership, Management, and Policy for the University of Arizona. Pierre was involved in the work of the British Columbia Claims Task Force and served as a co-chair of the First Nations Summit. She has also served on several boards and committees, including the Environmental and Aboriginal Relations Committee of the BC Hydro & Power Authority and the First Nations Congress. Pierre was recognized with the Order of British Columbia in 2002 and the National Aboriginal Achievement Award in the business category in 2003.

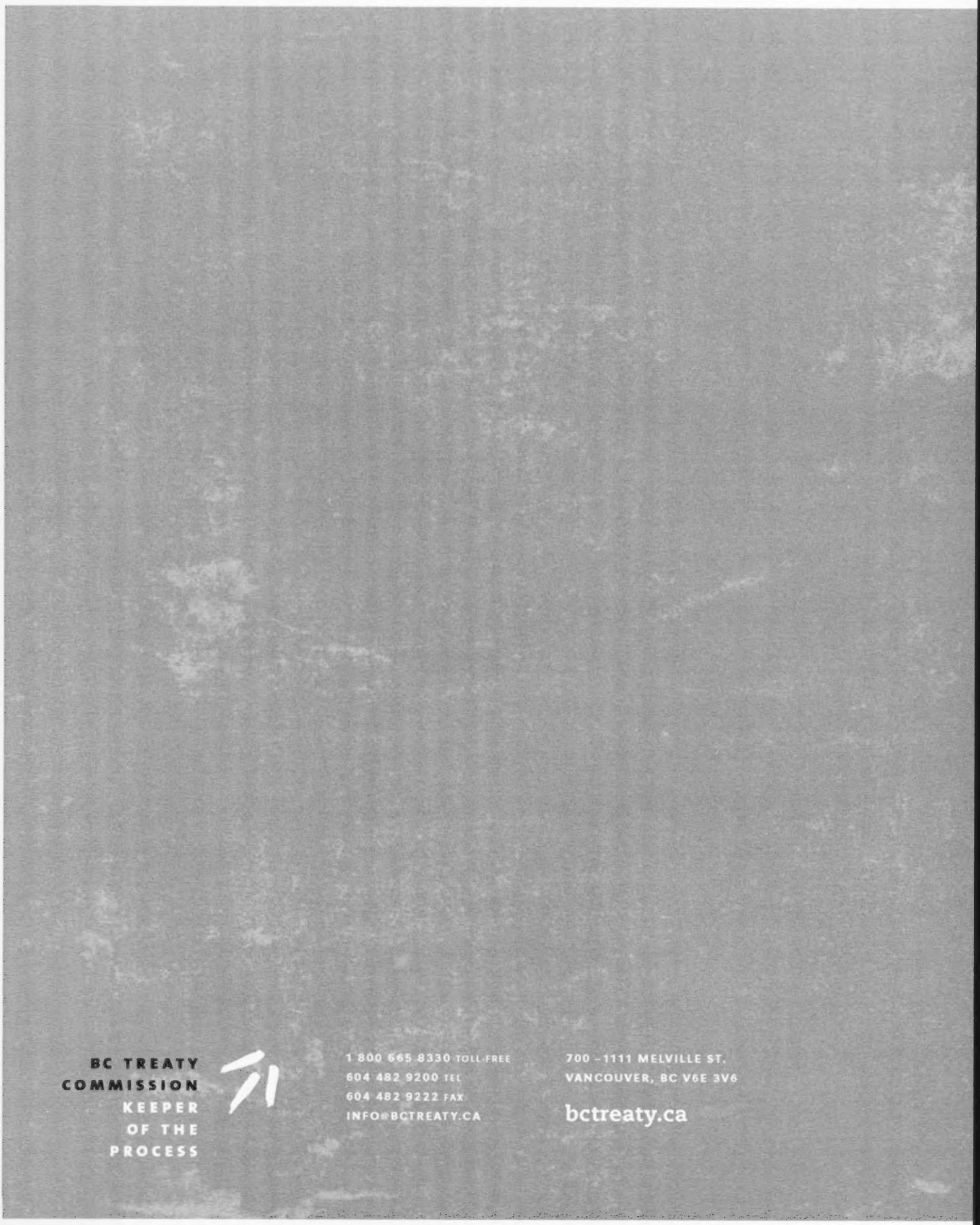
ROBERT PHILLIPS is serving his third term as commissioner following his re-election at the First Nations Summit in March 2011. He is a member of the Northern Secwepemc te Qelmukw (Shuswap) of the Canim Lake First Nation. Phillips holds a Bachelor of Arts degree from the University College of the Fraser Valley. He served as chief negotiator and, prior to that, as self-government director at the Northern Shuswap Tribal Council since 1998. Phillips has a background in aboriginal justice and economic development.

JERRY LAMPERT was re-appointed in December 2009 to a second, two-year term by the Government of Canada. Prior to this appointment Lampert served for 15 years as president and chief executive officer of the Business Council of British Columbia where he was a vocal advocate for developing better business relationships with First Nations. Lampert was formerly a principal in a government relations/public affairs consulting firm offering strategic and tactical advice to private sector corporations in their dealings with government. He served as chief of staff to two BC premiers and managed two successful provincial election campaigns in BC.

DAVE HAGGARD was re-appointed to a second two-year term in February 2010 by the Government of British Columbia. A long-time labour leader and forestry advocate, Haggard has extensive experience facilitating negotiations with industry, labour, and governments including First Nation governments. Haggard has worked with a number of First Nations, including the Maa-nulth First Nations. He was first elected in 1996 as national president of the Industrial, Wood and Allied Workers of Canada and has served as vice-president of the Canadian Labour Congress and the BC Federation of Labour. Born in Kamloops and raised in Barriere, Haggard's grandmother was a member of the Simpcw First Nation located by the North Thompson River. He is married to Eileen, a member of the Tseshaht First Nation.

CELESTE HALDANE was elected by the First Nation Summit delegates in March 2011 to serve a two-year term. Haldane, is a member of the Sparrow family from the Musqueam Indian Band. She also has Tsimshian roots in Metlakatla. She previously served as the Treaty Manager for the Nuu-chah-nulth Tribal Council. Haldane, has a Bachelor of Arts majoring in Anthropology (2000) and a Bachelor of Laws (2004), both degrees from the University of British Columbia. She is a practising lawyer and was called to the BC Bar in 2005. She is currently completing a Masters in Constitutional Law from Osgoode Hall Law School (LL.M.). She is married to a very supportive husband and they are raising three children together.

Notes



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